

Serial No. 10/588,805

Art Unit: 3612
Examiner: Jason S. Morrow**REMARKS**

In response to the Patent Office Letter of October 2, 2008, the Applicant respectfully requests reexamination and reconsideration. To further the prosecution of this application, amendments have been made in the claims, particularly in independent claim 1 and claims 12-19 have been canceled. The Applicant has also added additional claims 20-27 to this application in order to afford the Applicant a complete scope of claim coverage.

In the Patent Office Letter the Examiner has rejected claims 1-3, 9 and 10 under 35 U.S.C. §102(b) as anticipated by the Gaus et al. U.S. Patent No. 6,527,327. The Examiner has identified in Gaus et al. a rest 2 for use in a vehicle with a housing having a sloping upper face 14 and adjustment means 9 for positioning the housing relative to the vehicle. Furthermore, and with respect to claim 2, the Examiner has also relied upon Gaus et al. and its storage space 19 and having an open position shown in Fig. 5 that allows access to the storage space and, in Fig. 4 support for the calf of a user.

It is the Applicant's position that, particularly with regard to the subject matter of claim 2, that the Examiner is in error in rejecting claim 2 because of the pivotal lid shown in Gaus et al. does not provide a support for the calves of a user when in the open position. In rejecting claim 2 the Examiner refers to Fig. 5 of Gaus et al. to show the open position and to Fig. 4 of Gaus et al. to show a position in which support is provided for the calves of the user. Claim 2, and now the amendment to claim 1 incorporating claim 2, defines the open position as both allowing access to a storage space in the housing as well as providing a support for the calves of the user. This is provided in the same position of the lid not in separate positions as shown in Figures 4 and 5 of Gaus et al.

Amended claim 1 now basically incorporates the subject matter from previous claim 2 into claim 1 along with further clarifying language. This now makes it clear that the lid provides a foot rest when in a closed position and in an open position both allows access to a storage space in the housing as well as providing a support for the calves of the user. It is also noted that the

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claimed invention describes a far more simple construction than that found in Gaus et al. In the present invention the configuration of the pivotally mounted lid provides for both a foot rest and calf rest, requiring this by a simple pivotal connection between the lid and housing, whereas the arrangement disclosed by Gaus et al. involves a complex framework and linkages to provide their functions. There is simply no suggestion in Gaus et al. of a simple pivotally-mounted lid and in particular one that in the open position both allows access to the storage space as well as support for the calves of the user. In this connection, in the present application refer to Fig. 7 which shows the calf support surface as well as the lid being in its open position. Gaus et al. does not teach this feature.

Claim 2 has also been amended so that the previous subject matter is basically canceled from the claim with a substitution of other distinguishing language indicating that the position of the housing may be adjusted towards and away from a seat in the vehicle.

The Applicant has also added new claims 20-27. Claim 20 is simply a dependent claim from claim 1 indicating that the lid has an angled cross-section. It is noted that in Gaus et al. the lid 14 is completely planar.

Claim 21 has been added as a further independent claim and claims 22-27 are claims dependent to claim 21. Claim 21 is also believed to clearly patentably distinguish over the prior art cited by the Examiner. Claim 21 defines, inter alia, a pivot for the lid to provide two different pivot positions of the lid including a closed position and an open position. The lid is furthermore defined as having first and second contiguous, but differently sloping face surfaces including a foot rest surface and a calf rest surface. This is not at all shown in Gaus et al. Finally, claim 21 defines the pivotally-mounted lid in the closed position thereof as enabling the foot of the user to rest on the foot rest surface and in the open position thereof allowing access to the storage space while at the same time enabling the calf of the user to rest on the different slope calf rest surface. Claims 22-27 contain even further distinguishing language. For example, claim 22 defines these first and second surfaces as substantially each planar and defined by an angled inverse V-shaped

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cross section in which the angle between the surfaces is an obtuse angle. This is a further feature important in providing the capabilities previously discussed.

It is noted that the Examiner has also presented a rejection of claims 4-6, 11, 12, 13, 16 and 19 under 35 U.S.C. §103(a) relying further upon the Holweg et al. U.S. Patent 4,275,914. In view of the amendments made in claim 1 and the submission of new claim 21, it is believed that these claims patentably distinguish over the references whether taken singly or in combination. Moreover, the rejection of claims 7, 8, 14, 15, 17 and 18 on the basis of "official notice" is noted by the Applicant. However, in view of the foregoing amendments and remarks, it is believed that all claims in this application should now be in condition for allowance.

CONCLUSION

In view of the foregoing amendments and remarks, the Applicants respectfully submit that all of the claims pending in the above-identified application are in condition for allowance, and a notice to that effect is earnestly solicited.

If the present application is found by the Examiner not to be in condition for allowance, then the Applicants hereby request a telephone or personal interview to facilitate the resolution of any remaining matters. Applicants' attorney may be contacted by telephone at the number indicated below to schedule such an interview.

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The U.S. Patent and Trademark Office is authorized to charge any fees incurred as a result of the filing hereof to our Deposit Account No. 19-0120.

Respectfully submitted,
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